

### **REMARKS**

In the non-final Office Action, dated October 19, 2006, claims 1-11, 13-27, and 29-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Zigmond et al. (U.S. Patent No. 6,698,020) in view of Eldering (U.S. Patent No. 6,324,519) and Tetsumura (U.S. Patent No. 5,793,409); claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Zigmond, Tetsumura, and Eldering and further in view of Doherty (U.S. Publication No. 2003/0200128); and claim 28 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Zigmond, Tetsumura, and Eldering and further in view of Steele et al. (U.S. Publication No. 2002/0046084).

In this amendment, claims 1 and 44 are amended. Claims 1-44 are pending.

#### **Examiner Interview Summary**

Applicant appreciates the Examiners' time and responsiveness during the in-person interview conducted on Tuesday, January 23, 2007. During the interview, the Examiners and applicant's representative discussed claims 1 and 44. In addition, the Tetsumura reference was discussed. Agreement was reached with respect to the claims; the Examiners agreed that applicant's proposed amendment was sufficient to overcome the rejections of record. If the Examiners believe that any additional information regarding the interview is needed, please let the undersigned attorney know.

#### **Amendment to the Claims**

Claims 1 and 44 recite, inter alia, "an ascertained distinctive physical characteristic regarding the content observer at the content display site is obtained based at least in part on data that is passively sensed without requiring interaction by the content observer at the content display site." None of the prior art references, singly or in any motivated combination, disclose such. For example, Tetsumura does not ascertain a physical characteristic, distinctive or otherwise, regarding the content observer. Instead, Tetsumura

passively senses only the number of content observers in the room. Any physical characteristic, distinctive or otherwise, may only be ascertained after manual (i.e., active) input by a content observer, such as controlling channel operation switches A through F, each corresponding to a different content observer. (See Tetsumura, 3: 7-26.)

### Conclusion

Overall, none of the applied references, singly or in any motivated combination, teach or suggest the features recited in independent claims 1 and 44, and thus the claims are allowable. Since these independent claims are allowable, based on at least the above reasons, the claims which depend from them are likewise allowable. If the undersigned attorney has overlooked a relevant teaching in any of the references, the Examiner is requested to point out specifically where such teaching may be found.

In view of the foregoing, the claims pending in the application comply with the requirements of 35 U.S.C. § 112 and patentably define over the applied art. A Notice of Allowance is, therefore, respectfully requested. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 359-3599.

Please charge any deficiency in fees or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 345288006US2 from which the undersigned is authorized to draw.

Dated: February 15, 2007

Respectfully submitted,

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